

MINUTES  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, May 2, 2005

Division Five

**A105099 and A107617 – In re Anthony R., a Person Coming Under the Juvenile Court Law. The People v. Anthony R.**

The commitment imposed by Judge Power and the order by Judge Ichikawa denying the petition to modify Judge Power's commitment are affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

Tuesday, May 3, 2005

Division One

**A105999 – The People v. Jon Montonen.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A103843 – In re Katie D., a Person Coming Under the Juvenile Court Law. The People v. Katie D.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

Wednesday, May 4, 2005

Division One

**A107616 – The People v. Lashondra Akins.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J.  
(Certified for Publication)

**A106904 – The People v. Edward Vincent Borja.**

By the Court: The petition for rehearing is denied. Swager, Acting P.J.

Division Two

**A108197 – The People ex rel. Lake County Air Quality Management District v. Robert Reed.**

The judgment is affirmed. Reed is to pay costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

Division Four

**A105656 – Fireman’s Fund Insurance Company v. Clarendon America Insurance Company.**

The judgment is reversed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

Division Five

**A103501 – The People v. John Cunningham.**

Order Modifying Opinion and Denying Rehearing and no change in judgment. The Court: It is ordered that the opinion filed herein on April 18, 2005, be modified as follows: (See Order) There is no change in the judgment. Respondent’s petition for rehearing is denied. Jones, P.J. would grant rehearing. Jones, P.J. (Not for Publication)

**A107626 – The People of the State of California v. Allegheny Casualty Company, et al.**

By the Court: The request for publication of the opinion filed April 29, 2005, is denied. Jones, P.J.

Thursday, May 5, 2005

Division One

**A101890 – The People v. Amien Mohamed Abusafieh.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A104109 – The People v. Markesia Shonte Huey.**

Appellant's conviction is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

**A108321 – Hypertouch, Inc., v. The Superior Court of San Mateo County; Perry Johnson, Inc., R.P.I.**

The portions of the challenged order approving notice to the class providing that, in order to participate in this action, individual members of the certified class “must opt-in to same and not opt-out,” and that the judgment “will only bind those class members that opt-in,” were not, as the trial court believed, required by the due process clause of the Fourteenth Amendment; neither were they permitted by the applicable rules of court. The inclusion in the order of those provisions was therefore an abuse of discretion. Let a peremptory writ of mandate issue directing the superior court to vacate its order of October 13, 2004, approving notice to the certified class, and to enter a new and different order requiring notice to the class that conforms with the requirements of rule 1856 of the California Rules of Court. The stay previously imposed by this court is lifted. Petitioner shall recover its costs. (Cal. Rules of Court, rule 56(l).) Kline, P.J. I Concur: Lambden, J. (See concurring and dissenting opinion by Haerle, J.) (Certified for Publication)

**A099250 – The People v. Robert Noel.**

**A099366 and A099499 – The People v. Marjorie F. Knoller.**

**A109260 – In re Robert E. Noel, on Habeas Corpus.**

The order granting Knoller a new trial for second degree murder is reversed and the matter is remanded for further proceedings consistent with this opinion. In all other respects, the judgment against Knoller is affirmed. The judgment against Noel is affirmed. Lambden, J. I Concur: Ruvolo, J. (See concurring and dissenting opinion by Haerle, J.) (Certified for Partial Publication)

Thursday, May 5, 2005 (continued)

Division Three

**A104979 – The People v. Freeman P. Griffin.**

Order Modifying Opinion and Denying Rehearing and no change in judgment. The Court: It is ordered that the opinion filed herein on April 14, 2005, be modified as follows: (See Order) The petition for rehearing is denied. There is no change in the judgment. McGuiness, P.J.

Division Four

**A106345 – Ampex Corporation et al., v. Scott Cargle.**

We reverse the trial court's order denying Cargle's motion for section 425.16 attorney fees. Cargle was the prevailing defendant on his motion to strike and is therefore entitled to attorney fees and costs pursuant to section 425.16, subdivision (c). We remand solely for determination of reasonable fees and costs. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Certified for Publication)

**A104935 – The People v. Michael Timothy Knauss.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

Thursday, May 5, 2005 (continued)

Division Five

**A105749 – The People v. James Dean Holdway.**

The judgment is reversed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

**A107413 – Paul M. Guerrieri v. Kenneth Calvin McBee.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A105007 – Nicholas E. Toussaint et al., v. Clifford R. Fraser et al.**

The court's implied easement finding is reversed. The matter is remanded for the court's determination of defendants' equitable easement claim and plaintiffs' affirmative defense thereto. On remand, the ensuing judgment should incorporate: The court's pretrial ruling that defendants are not entitled to a prescriptive easement, the stipulated dismissal of defendants' claim of an easement by necessity, and defendants' dismissal of their claim of an express easement. Plaintiffs are awarded their costs on appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication)

Friday, May 6, 2005

Division One

**A107442 – Victor Johnson v. Cahill Contractors, Inc.**

By the Court: The petition for rehearing is denied. Margulies, Acting, P.J.

**A106680 – The People v. Michael John McCartney.**

By the Court: The petition for rehearing is denied. Margulies, Acting P.J.

Division Two

**A099250 – The People v. Robert Noel.**

**A099366 and A099499 – The People v. Marjorie F. Knoller.**

**A109260 – In re Robert E. Noel, on Habeas Corpus.**

Order Modifying Opinion and no change in judgment. The Court: It is ordered that the opinion filed herein on May 5, 2005, be modified as follows: (See order) There is no change in the judgment. Lambden, J. (Certified for Partial Publication)

Division Three

**A105927 – The People v. Heriberto Subeldia Delgado.**

The judgment entered March 11, 2004 against Delgado is modified to delete the \$7,000 in restitution to be paid to the Marin County Task Force. As modified, the judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Monday, May 9, 2005

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

Acting Presiding Justice Swager announced that Presiding Justice Marchiano and Justice Stein were absent from oral argument due to personal matters. He called the calendar to inquire if the parties would stipulate to argument before 1 justice on each case, with the exception of the last case, *Walsh v. Crawford, et al.*, in which both he and Justice Margulies were present and on the panel.

A106373     Joanne Michelle McLemore,  
                  v.  
                  Circuit City Stores, Inc.

Cause called. Rex D. Berry, counsel for appellant, and Roderick P. Bushnell, counsel for respondent, did not stipulate to proceeding before 1 justice. Cause ordered continued to the June calendar.

A101399    The People,  
v.  
Jamisi Calloway.

Acting Presiding Justice Swager announced that the parties were reached by telephone prior to argument and did not stipulate to proceeding before 1 justice. Cause ordered continued.

A101912 Christina Tunney,  
v.  
Siebel Systems, Inc.

Cause called. Andrew F. Scher, counsel for appellant, and Thomas M. Peterson, counsel for respondent, did not stipulate to proceeding before 1 justice. Cause ordered continued to the June calendar.



A106627 Susan Walsh,

v.

Glen Crawford, et al.

Cause called and argued by Joseph W. Klobas, counsel for appellant, and Kim Nguyen, counsel for respondents Crawford and Pates, and Stuart R. Curran, counsel for respondents Brubaker and Stromberg. Counsel stipulated to proceeding with 2 justices on the panel. Cause ordered submitted.

Court adjourned.

No cases were scheduled for the afternoon of May 9, 2005 and no cases were scheduled for May 10, 2005.

Monday, May 9, 2005 (continued)

Division Four

**A107993 – The People v. Jennifer Lorraine Quezada.**

The trial court is directed to cause the clerk's minutes of September 23, 2004, to be corrected to reflect a booking fee of \$216. As corrected, the judgment is affirmed in all respects. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

Tuesday, May 10, 2005

Division One

**A105852 – In re Yessica G., et al., Persons Coming Under the Juvenile Court Law. Sonoma County Social Services Agency v. Leonardo G.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

**A105075 – In re the Marriage of Anna and Jerry Litmon. Anna Litmon v. Jerry Litmon.**

The trial court's order of November 4, 2003 is affirmed in substance, but the matter is remanded to the trial court with instructions to enter a new order modifying paragraphs Nos. 4 and 5 of the November 4 order to read as follows: "4. The respondent's motion to vacate and enter a new order to set aside the orders/judgment regarding spousal support is denied and division of community property is denied due to respondent's failure to prove extrinsic fraud or diligence; [¶] 5. That respondent's motion for reimbursement of paid past spousal support, with interest at the governing legal rate on all paid amounts is denied, along with requests for vacating any orders for division of community property." Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A102434 – The People v. Pamela Jeanette Lopez et al.**

The convictions as to counts 4, 6, 8, 10, and 12, are hereby reversed. In all other respects, the judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

Division Four

**A107994 – The People v. Anthony Marcus Perry.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

Tuesday, May 10, 2005 (continued)

Division Five

**A106155 – Sheryl Land v. Alexander L. San et al.**

The order is reversed insofar as it awarded defendants costs and expert witness fees pursuant to section 998. The order is otherwise affirmed. Appellant shall be awarded her costs on appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication)

Wednesday, May 11, 2005

Division Two

**A104772 and A105254 – Estate of Edward U. Regli, Deceased. Michael Muessig, as Special Administrator, etc., v. Julia R. Muessig.**

The May 7, and October 20, 2003, orders are affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Wednesday, May 11, 2005

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Ruvolo, J. and S. Wheeler, Deputy Clerk.

- A107071      In re Raymond G., a Person Coming Under the Juvenile Court Law.  
The People,  
v.  
Raymond G.  
Cause called and argued by Rita Leone Swenor, counsel for appellant, and Christopher W. Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A103190      The People,  
v.  
Hector Armando Rodriguez.  
Cause called and argued by Maribeth Halloran, counsel for appellant, and Nancy Tung, Deputy Attorney General, counsel for respondent.  
Appellant directed to file a supplemental letter brief within 20 days. Respondent shall have 10 days thereafter to file a response. Appellant shall have 5 days thereafter to file a reply . Submission deferred until filing of the final letter briefs.
- A106958      Jesus Ceballos,  
v.  
Berkeley Farms.  
Cause called and argued by Daniel Mark Siegel, counsel for appellant, and John M. Skonberg, counsel for respondent. Cause ordered submitted.
- A107714      Cary Smith,  
v.  
Raymond Flinn.  
Cause called and argued by John Alexander Hally, counsel for appellant, and Marc L. Zafferano, counsel for respondent. Cause ordered submitted.

Court recessed until 2:00 p.m.

Court reconvened at 2:00 p.m. Present: Kline, P.J., Haerle, J., Lambden, J., and S. Wheeler, Deputy Clerk.

- A106481      International Federation of Professional and Technical Engineers, Local 21, AFL-CIO, et al.,  
v.  
Berkeley Unified School District, et al.  
Cause called and argued by Duane Westlee Reno, counsel for appellants, and Marleen Lee Sacks, counsel for respondents. Cause ordered submitted.
- A106512      Alisal Improvement Club,  
v.  
City of Pleasanton, et al.;  
Alex Spotorno, et al.  
Cause called and argued by William Siamas and Douglas Jaffe, counsels for appellant, and Michael Roush and Brian Washington, counsels for respondents. Cause ordered submitted.
- A103504      The People,  
v.  
Sean Keith Shields.  
Cause called and argued by Victoria Hagen Stafford, via teleconference, counsel for appellant, and Rene Chacon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recess until Thursday, May 12, 2005 at 9:30 a.m.

Wednesday, May 11, 2005 (continued)

Division Five

**A108218 – In re the Marriage of Denise Tira Montoya and Jason A. Daniele. Denise Tira Montoya v. Jason A. Daniele.**

The order is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

**A108219 – In re the Marriage of Denise Tira Montoya and Jason A. Daniele. Denise Tira Montoya v. Jason A. Daniele.**

The order is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

**A108326 – The People v. Aisha Ann Blue.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)



Thursday, May 12, 2005

Division One

**A106605 – Hung Ha v. Employment Development Department et al.**

For the reasons set forth above, the appeal is dismissed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A101286 – Harry O. Kourian v. Jirayr O. Kourouyan et al.**

The judgment is modified to reflect that the dollar amount of damages awarded to Harry is \$19,200 and, as so modified, is affirmed. In the interests of justice, each party shall bear his own costs on appeal. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication)

**A106260 – The People v. Helena Renee Hines.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

**A106618 – Hebrew Academy of San Francisco et al., v. Richard N. Goldman et al.**

Accordingly, the judgment is reversed and the cause remanded for further proceedings consistent with our holding. Costs on appeal are awarded to appellants. Kline, P.J. I Concur: Lambden, J. (See dissenting opinion by Haerle, J.) (Certified for Publication)

**A105677 – The People v. Craig Boyl.**

We affirm appellant's sentence in its entirety. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO  
Thursday, May 12, 2005

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Haerle, Acting P.J., Lambden, J., Ruvolo, J., and I. Santos, Deputy Clerk.

A106783      In re Rafael C., a Person Coming Under the Juvenile Court Law.  
The People,  
v.  
Rafael C.  
Cause called and argued by Jonathan Soglin, counsel for appellant, and Michael Banister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Haerle left the bench and Presiding Justice Kline joins the bench for the remainder of the calendar.

A106174      In re John G., a Person Coming Under the Juvenile Court Law.  
The People,  
v.  
John G.  
Cause called and argued by Patrick Meyering, counsel for appellant, and Michael Banister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A106656      Laurence Tain et al.,  
v.  
State Board of Chiropractic Examiners.  
Cause called and argued by David Prescott, counsel for appellant, and Char Anne Sachson, counsel for respondent. Cause ordered submitted.

A105767      City of Pinole,  
v.  
Lionsgate Corporation.  
Cause called and argued by Charles O. Morgan, counsel for appellant, and David W. Ginn, Lawrence G. Lossing and David Eligator, counsels for respondents. Cause ordered submitted.

**COURT ADJOURNED.**

Thursday, May 12, 2005 (continued)

Division Three

**A106846 – The People v. Joni Robin Shultis.**

The appeal is dismissed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication)

Friday, May 13, 2005

Division Two

**A102048 – The People v. Gregory Cooper.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Friday May 13, 2005

Court convened at 9:25 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan, J., Parrilli J., Pollak, J., and C. Turner, Deputy Clerk.

Justice McGuiness announced that the panel for following case is comprised of Corrigan, J., Pollak, J., and himself.

A102207     Bruce A. Pelkey,

v.

Linda C. Cavalli.

Cause called and argued by Bruce Pelkey counsel in Pro Per and Paul Loomis, counsel for respondent.

Cause ordered submitted.

Justice Corrigan announced that the panel for the following case is comprised of Justice Pollak, Justice Parrilli and herself.

A102620     The People,

v.

Franklin Neal and Richard Mortensen.

Cause called and argued by Stephen B. Bedrick, counsel for appellant Brady, Candace Hale, counsel for appellant Mortensen and William Kuimelis, counsel for respondent.

Cause called and argued. Submission deferred upon filing of letter briefs from attorney Bedrick and counsel for respondent, by Monday, May 16, 2005.

Cause shall stand submitted May 16, 2005, 5:00 p.m.

Justice Pollak left the bench.

A102857     Rebecca Fields, et al.,

v.

Maestros Ristorante of San Ramon, et al.,

Cause called and argued by Kevin R. Brodehl, counsel for appellant, and David T. Hornsby, counsel for respondent.

Cause ordered submitted.

A103514     In re Wiley B.,

The People,

v.

Wiley B.,

Cause called and argued by Cindy Ann Diamond, counsel for appellant, and

Christopher W., counsel for respondent.  
Cause ordered submitted.

A103445 Frederick E. Watson,  
v.  
Michael Kalashian, et al.,  
Cause called and argued by Frederick Watson counsel for appellant, and  
John Laurence Fitzgerald, counsel for respondent.  
Cause ordered submitted.

A105201 Richard Miller, et al.,  
v.  
McGrath Steel Company, Inc.  
Cause called and argued by Bradley S. Pauley, counsel for appellant, and  
Paul Fogel, counsel for respondent.  
Cause ordered submitted.

A104995 Transaction Financial Corp.,  
v.  
C.J. A Corporation,  
Cause called and argued by Henry S. David, counsel for appellant, and  
Roger Bernhardt, counsel for respondent.  
Cause ordered submitted.

Court adjourned

Friday, May 13, 2005 (continued)

Division Four

**A106269 – The People v. Gurnam Singh.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

**A107203 – Beverly Saba v. Alev Efendioglu.**

The order granting dismissal is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

**A107292 – The People v. Ricky Dean Patrick.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

**A108508 – The People v. Jem Christopher Bailey.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

Division Five

**A109200 – In re Chang V., a Person Coming Under the Juvenile Court Law. The People v. Chang V.**

The order of the juvenile court is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

Monday, May 16, 2005

Division One

**A105100 and A106810 – In re Joel A., a Person Coming Under the Juvenile Court Law. The People v. Joel A.**

The jurisdictional and dispositional orders, and the order denying the motion to modify the disposition, are affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)



MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Monday, May 16, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; Guardsmark Officer Tamika Bell, Bailiff.

A107265      Jared Rogers, a minor, et al.  
                 v.  
                 San Ramon Valley Unified School District  
Cause called. No appearance was made by appellants' counsel Steven Cavalli;  
Gregory Stubbs appeared for respondent and submitted the matter. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J. and Sepulveda, J.

A106852      John Cripps  
                 v.  
                 Fair, Issac and Company, Inc.  
Cause called. Jonathan Siegel argued for appellant Cripps. Nick Geannacopulos  
argued for respondent. Cause submitted.

A106648      Electro Rent Corporation  
                 v.  
                 John Garamendi et al.  
Cause called. Sue Jenkins argued for appellant Electro Rent Corporation. John Frye  
argued for respondent and real party in interest. Cause submitted.

A107402      People  
                 v.  
                 Debra Renee Fortune  
Cause called. Joel Coble argued for appellant People. Steve Condie argued for  
respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Sepulveda, J. and Rivera, J.

A105612      Joyce Yamagiwa  
A105613      v.  
                 City of Half Moon Bay et al.  
Causes called. Rick Jarvis argued for appellant City of Half Moon Bay. Joseph

Barbieri argued for appellant California Coastal Commission. Anne Mudge argued for respondent. Causes submitted.

Court recessed at 11:29 a.m. in memory of William R. Channell, retired Associate Justice of Division Four.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT

DIVISION FOUR

Monday, May 16, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; Guardsmark Officer Tamika Bell, Bailiff.

A107077

Robert Marsili

v.

Greg Garrison et al.

Cause called. Eric Nordskog argued for appellant Marsili. Geoffrey A. Munroe argued for respondent. Cause submitted.

The Court adjourned at 1:54 p.m. in memory of William R. Channell, retired Associate Justice of Division Four.

Monday, May 16, 2005 (continued)

Division Five

**A103989 – Tender Loving Thins, Inc., v. Wendy Robbins, et al.**

By the Court: The petition for rehearing is denied. Stevens, Acting P.J.

Tuesday, May 17, 2005

Division One

**A107817 – The People v. Steven R. Cornwell.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

**A106397 – The People v. Paul Douglas Loutzenhiser.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

**A106579 – The People v. Adam E. Downing.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

**A109292 – In re I.G., a Person Coming Under the Juvenile Court Law. Bonnie C., V. San Francisco Superior Court; San Francisco County Department of Human Services, R.P.I.**

Our previous opinion in this matter, issued on April 29, 2005, is hereby vacated. The petition for writ of mandate is denied. (§ 366.26, subd. (l)(1)(C); Cal. Rules of Court, rule 38.1(d); *In re Julie S.* (1996) 48 Cal.App.4<sup>th</sup> 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, May 17, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Stephen Umeki, Bailiff.

A106959      Ronald G. Metcalf  
                 v.  
                 Metalclad Insulation Corporation  
Cause called. Katherine Wang argued for appellant Metcalf. Camille K. Fong argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J., and Rivera, J.

A106875      Louis G. Navellier et al.  
                 v.  
                 Kenneth G. Sletten  
Cause called. Ralph Alldredge argued for appellant Sletten. Samuel Kornhauser argued for respondents. Cause submitted.

Court recessed at 10:17 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, May 17, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Sepulveda, J. and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Allen Reyes, Bailiff.

A107686      People  
                 v.  
                 Jaime P.  
Cause called. Diana Teran teleargued for appellant Jaime P. Ronald Niver argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J., and Sepulveda, J.

A100182      Ambrose Nwokoro  
                 v.  
                 Emmanuel Okereke  
Cause called. Walter Pyle argued for appellant Okereke. Kelechi Charles Emeziem argued for respondent. Cause submitted.

The Court adjourned at 2:13 p.m.

Wednesday, May 18, 2005

Division One

**A105492 – The People v. Charles Williams.**

**A104861 – The People v. Jeremy Smiley.**

The judgments are affirmed as to both defendants. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

**A101681, A104110, A104111 and A104693 – Susan David v. Wendy Alter Hermann, Individually and as Successor Trustee, etc.**

We reverse the portion of the amended judgment filed July 30, 2003, awarding \$180,187.50 in attorney fees to the petitioner Susan David, as well as the portion of the judgment entered December 10, 2002, awarding attorney fees, and the order filed May 12, 2003, and the order filed November 14, 2003, denying inter alia Wendy's motion for a protective order. In all other respects, the judgment is affirmed. Each party shall bear her own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Certified for Publication)

**A105999 – The People v. Jon Montonen.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

**A105702 – SWT Corporation et al., v. Steven Egri.**

The court's denials of appellants' motions for a preliminary injunction and to disqualify counsel are affirmed. Egri is awarded costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

**A106286 – In re Drew H., a Person Coming Under the Juvenile Court Law. The People v. Drew H.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

**A104596 – Holly Baxter et al., v. Wilson & Kratzer Mortuaries etc.**

The judgment is affirmed. Costs on appeal are awarded to Greer. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)



Wednesday, May 18, 2005 (continued)

Division Three

**A107107 – The People v. Michael Brian Taylor.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

**A102552 – In re the Marriage of Pamela and John Lyman Bunce. Pamela Rae v. John Lyman Bunce.**

The order is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A107715 – The Education Resources Institute, Inc., v. Sandra R. Mitchell.**

The judgment in Case One (San Francisco Superior Court No. 311823) is vacated in its entirety. The judgment in Case Two (San Francisco Superior Court No. 417033) is remanded for modification (a) to eliminate any reference to or reliance upon section 664.6; (b) to clarify the amount of principal and interest awarded to respondent in accordance with the parties' settlement agreement; and (c) to set forth any other particular orders deemed appropriate by the trial court regarding the parties' reciprocal obligations with respect to the judgment. In all other respects, the judgment in Case Two is affirmed. Each party shall bear its own costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication)

**A104361 – The People v. Richard Earl Griffin.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A103445 – Frederick E. Watson v. Michael Kalashian et al.**

The order of the trial court is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A107788 – Katherine W. Fong v. Safe America Credit Union.**

The judgment is affirmed. Safe America shall recover its costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication)

Division Four

**A107265 – Jared Rogers, a Minor, etc., v. San Ramon Valley Unified School District.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Wednesday, May 18, 2005 (continued)

Division Five

**A105518 – Rita Parrish et al., v. Cingular Wireless, LLC, et al.**

The order denying the petition to compel arbitration is affirmed as to plaintiff Rita Parrish. As to the remaining plaintiffs, the order is reversed in part, and the trial court is directed to enter a new order compelling arbitration of the monetary claims on an individual basis. With respect to the claims for injunctive relief, the order denying arbitration is affirmed. The parties shall bear their own costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Certified for Publication)

**A105910 – William Bucy, et al., v. AT&T Wireless Services, Inc.**

The order denying arbitration is reversed, and the trial court is directed to enter a new order compelling arbitration of the monetary claims on an individual basis. The parties shall bear their own costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

**A106061, A106340 and A106341 – Porsha Meoli, Alan Cherrigan, Jael Salas, et al., v. AT&T Wireless Services, Inc., et al.**

The order denying the petition to compel arbitration is affirmed as to plaintiff Diane Tucker. As to the remaining plaintiffs, the order is reversed in part, and the trial court is directed to enter a new order compelling arbitration of the monetary claims on an individual basis. With respect to the claims for injunctive relief, the order denying arbitration is affirmed. The parties shall bear their own costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

**A106671 – Diane Tucker v. Cingular Wireless.**

The order denying arbitration is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

**A105906 – Jaime Wing, et al., v. Cingular Wireless.**

The order denying arbitration is reversed, and the trial court is directed to enter a new order compelling arbitration on an individual basis. The parties shall bear their own costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

**A106569 – Brent Woods v. Cingular Wireless.**

The order denying arbitration is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

Thursday, May 19, 2005

Division Three

**A104482 – James Patricia Quinn, et al., v. Thomas McCoy, et al.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A101409 and A102379 – James Quinn, et al., v. Thomas McCoy.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A105201 – Richard Miller, et al., v. McGrath Steel Company, Inc.**

The judgment is affirmed. The Millers shall recover their costs on appeal. Parrilli, J.  
We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

**A104995 – C.J.A. Corporation v. Trans-Action Financial Corporation, et al.**

The trial court's order is reversed insofar as it sustained respondents' demurrer to the third, fourth, fifth, and sixth causes of action. The court is directed to overrule the demurrer as to those causes of action. The order is otherwise affirmed. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

Division Four

**A106304 – Marco Fontani v. Wells Fargo Investments, LLC.**

The appeal from the order overruling the demurrer is dismissed. The order denying the motion to strike under the anti-SLAPP law is reversed, with directions to grant the motion. Costs on appeal to Wells Fargo. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Certified for Publication)

## MINUTES

### COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

#### DIVISION FIVE

Thursday, May 19, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourt Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J.; and Richrad H. Sandvik, Deputy Clerk.

- A107001      Tony Wilbert  
                 v.  
                 Suanna Gurovich, et al.  
                 Cause called and argued by Joseph K. Bravo, counsel for appellant, and by Susan Watson, counsel for respondent. Cause ordered submitted.
- A107004      Patty Liao  
                 v.  
                 Kar Ho Chan  
                 Cause called and argued by Joseph Pisano, counsel for appellant, and by Priscilla F. Slocum, counsel for respondent, appearing via teleconference call. Cause Ordered submitted.
- A106781      In re Bartholomew D., a Person Coming Under the Juvenile Court Law.  
                 The People  
                 v.  
                 Bartholomew D.  
                 Cause called and argued by Jonathan D. Soglin, counsel for appellant, and by Michael E. Banister, counsel for respondent. Cause ordered submitted.
- A107010      David Bell  
                 v.  
                 Fairbanks Capital Corp., et al.  
                 Cause called and argued by David Bell appearing in pro per, and by Edwin R. Cottone, counsel for repsondent appearing via teleconference call. Cause ordered Submitted.
- A103391      Robert Conklin  
                 v.  
                 Tutor-Saliba Corporation  
                 Cause called and argued by Jeri Rouse Looney, counsel for appellant, and by James Butler, counsel for respondent. Cause ordered submitted.

Justice Gemello leaves the bench and Justice Stevens enters.

A106204      Hazrat Molana Nader Angha, et al.  
                 v.  
                 Talat Angha  
                 Cause called and argued by Elizabeth A. Zareh, counsel for appellant, and by  
                 John N. Dahlberg, counsel for respondent. Cause ordered submitted.

A107138      Frank Marolda  
                 v.  
                 Claremont Labor Insurance Services, Inc.  
                 Cause called and argued by Eric C. Shaw, counsel for appellant, and by Elizabeth  
                 M. Pappy, counsel for respondent. Cause ordered submitted.

A107341      Anthony Johnisee, et al.  
                 v.  
                 Kimberlite Corporation  
                 Cause called and argued by Russell K. Ryan, counsel for appellant, and by Nancy  
                 M. Stuart, counsel for respondent. Cause ordered submitted.

Court recessed at 11:15 until 1:30 p.m.

Court reconvened at 1:30 p.m.

A108639      Tariq Coffey  
                 v.  
                 The Superior Court of San Francisco County  
                 The People  
                 Cause called and argued by Christopher Gauger, counsel for petitioner, and by  
                 Michael Chamberlin, counsel for real party in interest. Cause ordered submitted.

A104499      Small Property Owners of San Francisco, et al.  
                 v.  
                 City and County of San Francisco  
                 Cause called and argued by Andrew M. Zacks, counsel for appellant, and by  
                 Audrey Williams Pearson, counsel for respondent. Cause ordered submitted.

A106801      In re Jose S., a Person Coming Under the Juvenile Court Law.  
                 The People  
                 v.  
                 Jose S.  
                 Cause called and argued by Ralph Sivilla, counsel for appellant, and by Jona  
                 Lynn Saxby, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:43 p.m.

Friday, May 20, 2005

Division Three

**A102857 – Rebecca Fields, et al., v. Maestro’s Ristorante of San Ramon, Inc., et al.**

The judgment is affirmed. Appellants shall pay respondents’ costs on this appeal.

McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Friday May 20, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness P.J., Parrilli J., Pollak J., and C. Turner, Deputy Clerk.

- A010316 Shirish Wagh,  
v.  
Metris Direct, Inc., et al.,  
Cause called and argued by Ernest M. Thayer, counsel for appellant, and  
Tomio Buck Narita, counsel for respondent.  
Cause called and argued by
- A104413 The People,  
v.  
Glenn Lewis Merrifield,  
Cause called and argued by Kathleen W. Novoa, counsel for appellant, and  
Martin S. Kaye, counsel for respondent.  
Cause ordered submitted.  
Justice Parrilli left the bench and Justice Corrigan took her place on the bench.
- A106857 Martin F. Triano,  
v.  
Alexander Popov,  
Cause called and argued by Joel K. Belway, counsel for appellant, and  
Robert Alex Roth, counsel for respondent.  
Cause ordered submitted.
- A104193 Charles Gush II, et al.,  
v.  
Charles Kipert, et al.,  
Cause called and argued by David W. Lively, counsel for appellant, and  
Michael Lee Abbott, counsel for respondents Charles Kipert and Patrick Walsh,  
arguing via-tele conference and Terry Hamilton, respondent in pro per arguing via  
tele conference.  
Cause ordered submitted..

Court adjourned

Friday, May 20, 2005

Division Four

**A106852 – John Cripps v. Fair, Isaac and Company, Inc.**

The judgment is affirmed. Respondent Fair Isaac shall recover its costs incurred on appeal, upon timely application in the trial court. (Cal. Rules of Court, rule 27.) Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

**A106959 – Ronald Metcalf v. Metalclad Insulation Corporation.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

**A106648 – Electro Rent Corp., v. John Garamendi, as Insurance Commissioner, etc.; Workers' Compensation Insurance Rating Bureau et al., R.P.I.**

The order is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

Division Five

**A107444 – The People v. Curtis C. Long.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)



Monday, May 23, 2005

Division One

**A104926 – WSM Enterprises Inc., v. West Coast Property Management Co., et al.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A103892 and A106864 – In re the Marriage of Terri and William Parker. Terri Parker v. William Parker.**

Order Modifying Opinion and Denying Rehearing and no change in judgment. By the Court: It is ordered that the nonpublished opinion filed herein on April 25, 2005, be modified as follows: (See Order) There is no change in judgment. Appellant's petition for rehearing is denied. Marchiano, P.J. (Not for Publication)

Division Two

**A106532 – The People v. Byron K. Rucker.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

**A106343 – West Bay Builders, Inc., v. Liberty Union High School District; Lathrop Construction Associates, R.P.I.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Division Three

**A104929 – The People v. Fredrick Rico Chatmon.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Certified for Publication)

**A109713 – Consuela Q. v. The Superior Court of San Francisco County; San Francisco Department of Human Services, R.P.I.**

The petition is denied. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication)

Monday, May 23, 2005 (continued)

Division Four

**A107402 – The People v. Debra Renee Fortune.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Certified for Publication)

**A100182 – Ambrose Nwokoro v. Emmanuel Okereke.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

**A107077 – Robert Marsili v. Greg Garrison et al.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Division Five

**A107322 – John Westra et al., v. Marcus & Millichap Real Estate Investment Brokerage Company, Inc., et al.**

Order Certifying Opinion for Partial Publication. By the Court: 1. The opinion in the above-titled matter filed on April 27, 2005, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be partially published in the Official Reports, and it is so ordered. 2. Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication with the exception of part II.B.2. 3. This does not effect a change in the judgment. Jones, P.J. (Certified for Partial Publication)

Tuesday, May 24, 2005

Division One

**A106897 – The People v. Kenneth Brabo.**

The conviction for violating section 241, subdivision (b) is reversed. In all other respects, the judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

**A106783 – In re Rafael C., a Person Coming Under the Juvenile Court Law. The People v. Rafael C.**

The matter is remanded to the juvenile court with directions to exercise its discretion in setting Rafael's maximum term of confinement, pursuant to section 731, subdivision (b), and to award Rafael 106 days of custody credit. The juvenile court's orders are otherwise affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication)

**A105375 – The People v. Romelita Bautista.**

**A106495 – In re Romelita Bautista, on Habeas Corpus.**

Bautista's convictions of section 266j in Counts 2, 3, 4, 5 and 6 are reversed. In light of these reversals, we remand the case to the trial court for resentencing. The trial court shall prepare an amended abstract of judgment and forward a copy of it to the Department of Corrections. The petition for writ of mandate is denied. In all other respects, the judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication)

Division Three

**A106857 – Martin F. Triano v. Alexander Popov.**

The order denying Popov's motion to dissolve the preliminary injunction is affirmed. Triano shall recover his costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

**A089623 – The People v. Clemeth Ray Castille et al.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Publication)

**A109004 – The People v. Lucien James Bisaccio.**

We find in the record no issues warranting further briefing. The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

Tuesday, May 24, 2005 (continued)

Division Five

**A105132 – Michael H. Clement Corporation et al., v. County of Contra Costa et al.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

**A107341 – Anthony Johnisee et al., v. Kimberlite Corporation.**

The judgments are affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

**A106244 – In re the Marriage of Valerie and Ralph Tashjian. Valerie Ciarlo v. Ralph Tashjian.**

The judgment is affirmed. Respondent Ralph Tashjian shall be awarded his costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A107288 – The People v. Tracy Marie Markarian.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A108693 – Tariq Coffey v. The Superior Court of San Francisco County; The People, R.P.I.**

The petition for writ of mandate is denied. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Certified for Publication)

**A107010 – David James Bell v. Fairbanks Capital Corporation.**

The order dissolving and terminating the preliminary injunction entered in the superior court on August 13, 2003, is affirmed. The writ of supersedeas issued by this court on September 2, 2004, and modified on January 5, 2005, is dissolved. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Wednesday, May 25, 2005

Division One

**A107277 – The People v. Renee Jeanean McCarty.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

**A107103 – Hao Xu v. Xin Lu; Alameda County Department of Child Support Services, et al., R.P.I.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A107559 – The People v. Martin Gonzalez Pulido.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A106174 – In re John G., a Person Coming Under the Juvenile Court Law. The People v. John G.**

We affirm all of the juvenile court's rulings, except that we hereby modify the court's commitment order, dated March 24, 2004, and filed on April 1, 2004, to state a term of two months for each of appellant's violations of Penal Code sections 484 and 12651, subdivision (d), and to state that appellant's maximum period of confinement is four years. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

Division Three

**A108223 – In re Mickey W., a Person Coming Under the Juvenile Court Law. The People v. Mickey W.**

The orders of the trial court are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A104193 – Charles Gush II et al., v. Dual Arch International, Inc.**

The order denying the motion to tax costs is reversed and the award of attorney fees is vacated. In all other respects the judgment is affirmed. The parties are to bear their own costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

Wednesday, May 25, 2205 (continued)

Division Four

**A107686 – In re Jaime P., a Person Coming Under the Juvenile Court Law. The People v. Jaime P.**

The matter is remanded to the juvenile court for determination of the proper maximum period of confinement. In all other regards, the judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

Division Five

**A103391 – Robert Conklin v. Tutor-Saliba Corporation.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

Thursday, May 26, 2005

Division One

**A105001 – The People v. Marquis Vernard Walker.**

The judgment of the trial court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

**A107343 – Hung Ha v. Berkeley Bowl Marketplace et al.**

The judgment of dismissal is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication)

**A108286 – The People v. Richard W. Krom.**

The judgment and sentence are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

**A106277 – Gregory S. Garetson v. William F. Garetson et al.**

The portion of the order imposing a surcharge on Gregory in the amount of \$9,031 is reversed. In all other respects, the order is affirmed. The parties shall bear their own costs on appeal. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

**A108052 – Gerald L. Hoffman et al., v. County of San Mateo.**

The judgment of the trial court is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

**A103397 – The People v. Kenton H. Kor.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

**A106389 – Hung Ha v. Mark Rhoden et al.**

The trial court's dismissal order of October 24, 2003 is vacated, and the matter is remanded for entry of an order dismissing plaintiff's action without prejudice. Each party shall bear their own costs on appeal. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

**A106387 – Hung Ha v. County of Alameda.**

The order of the trial court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

**A108400 – The People v. Anthony Mora.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Thursday, May 26, 2005 (continued)

Division Two

**A103048 – California Contractors’ License Services v. Scrodin Enterprises, Inc., et al.**

The order is reversed. The trial court is directed to vacate the Amended Judgment and to quash the writ of execution. Each party to bear its own costs on this appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

**A105926 – The People v. Jeffrey M. Leber.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

**A105382 – The People v. Matthew Calloway.**

Appellant’s conviction for attempted grand theft auto (§§487, subd. (d)(1)/664) is hereby reversed. The judgment is otherwise affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

Division Three

**A107026 – The People v. Nelson Ayran.**

The trial court is directed to prepare and file an amended abstract of judgment indicating 210 days in actual custody and total credit for time spent in custody of 314 days. The May 10, 2004, judgment is otherwise affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

Division Five

**A106204 – Hazrat Molana Nader Angha et al., v. Talat Angha.**

The court’s order denying the petition is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

**A107004 – Patty Liao v. Kar Ho Chan.**

The judgment is affirmed. Respondent shall recover his costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)



Friday, May 27, 2005

Division One

**A109787 – Robert M., v. Contra Costa County Superior Court; Contra Costa County Children and Family Services Bureau, et al., R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal. 4<sup>th</sup> 888, 894; *Bay Development, Ltd v. Superior Court* (1990) 50 Cal. 3d 1012, 1024.) This decision is final in this court immediately. (rule 24(b)(3).)

Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

**A105683 – The People v. Shadrick Peter Williams.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication)

**A106259 – The People v. Sean D. Gadson.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Three

**A103161 – Shirish Wagh v. Metris Direct, Inc., et al.**

The orders denying appellant's motions to enter respondents' default, and the judgment dismissing appellant's action are affirmed. Appellant shall pay respondents' costs on this appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

**A108439 – In re Tyler Y., a Person Coming Under the Juvenile Court Law. Contra Costa County, Employment and Human Services Department, Children and Family Services v. Peter Y.**

The order of November 18, 2004 is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

**A107969 – In the Matter of The Philip L. Fox Living Trust. Philip T. Fox v. Frederick N. Fox.**

The final order, denoted a judgment after trial, filed on August 30, 2004, is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A104413 – The People v. Glenn Lewis Merrifield.**

The judgment is reversed, and the case is remanded for resentencing. On remand, Merrifield shall be permitted to withdraw his plea of no contest and corresponding admissions. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

Friday, May 27, 2005 (continued)

Division Three

**A103764 – The People v. Antonio Mark Flowers.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

Division Five

**A107001 – Tony Wilbert v. Suanna Gurovich et al.**

The judgment is affirmed. Respondents are awarded their costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A107548 – In re S.D., a Person Coming Under the Juvenile Court Law. The People v. S.D.**

The juvenile court's jurisdictional and dispositional orders are affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

Tuesday, May 31, 2005

Division One

**A107471 – In re Yanmarrie C., a Person Coming Under the Juvenile Court Law. Contra Costa County Employment & Human Services Department, Children & Family Services v. Helen G.**

The order terminating the mother's parental rights, and selecting adoption as the permanent plan, is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

**A105428 – Ronald Richman et al., v. Board of Supervisors of Contra Costa County et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication)

**A105135 – Gloria Garcia v. Richard Bohannon.**

The judgment is affirmed. Each party shall bear its own costs on appeal. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Division Three

**A108674 – Edward A. Hume v. Edward D. Hume.**

The appeal is dismissed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

**A102207 – Bruce A. Pelkey v. Linda C. Cavalli et al.**

The orders are affirmed. Pelkey's motion to strike the respondent's appendix is denied, as is Cavalli's motion to augment the record. The stay previously issued by this court shall be dissolved upon issuance of the remittitur. Cavalli's motion for sanctions is granted in the amount stated above. In addition, Cavalli is to recover her costs on appeal. Pelkey is to pay the sanctions no later than 15 days after the date the remittitur is filed. The clerk of the court will send a copy of this opinion to the State Bar. (Bus. & Prof. Code, § 6086.7, subds. (a)(3),(c).) Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication)

Tuesday, May 31, 2005 (continued)

Division Four

**A106875 – Louis G. Navellier et al., v. Kenneth G. Sletten.**

The order is affirmed. The parties shall bear their own costs on appeal. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

**A106405 – The People v. Troy Darnell Murphy.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

**A107448 – The People v. Karen Butler.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

**A108036 – The People v. Korvell LeKeith Mitchell.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

**A106950 – The People v. Ramon Amador De Los Santos.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

**A104212 and A105197 – The People v. Raymond William Rodrigues, Jr.**

The trial court is directed to amend the abstract of judgment in appeal No. A105197 (case No. H33120) in a manner consistent with this opinion. The trial court is ordered to issue an amended abstract of judgment reflecting this modification, and to forward a copy of the amended abstract to the Department of Corrections. In all other respects, the judgments are affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

**A107534 – Gayle H. Becker v. Stuart Seiff et al.**

The appeal is dismissed. The parties shall bear their own costs on appeal. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

**A105488 – Borders Online, LLC v. State Board of Equalization.**

The judgment is affirmed. Respondent shall recover its costs on appeal. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication)

Tuesday, May 31, 2005 (continued)

Division Five

**A107841 – In re Morris F., a Person Coming Under the Juvenile Court Law. The People v. Morris F.**

The disposition is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication)